REMARKS

We note that claims 2-7, 9-10, 13-16, 18-19, 21-27, 29-30, 33-36, and 38-43 are allowed. (Paper No. 20041012 at 1 and 3.) We also note that claims 1 and 20 "would be allowable if rewritten to overcome the objections" in the Office Action. (*Id.*)

Claim 1 has been amended on line 7 to recite "$A_m(\lambda)$ of the". This amendment merely corrects an obvious typographical error and does not change the scope of the claim in any way.

Claim 20 has been amended on line 7 to recite "$B_i(\lambda) =$". This amendment merely corrects an obvious typographical error. Claim 20 has also been amended to recite "$(N > 1)$". Support for this amendment is found in the specification at, for example, page 12, line 33 - page 13, line 2. These amendments do not change the scope of the claim in any way.

Claims 40-43 have been canceled without prejudice.

It is submitted that no new matter has been introduced by the foregoing amendments. Approval and entry of the amendments is respectfully solicited.

Objections

A. Drawings

The Examiner objected to the drawings because they "must show every feature of the invention specified in the claims." The Examiner asserted that "the spectral lamp, a neon lamp of claims 40-43 [must be] canceled from the claim(s)."

(Paper No. 20041012 at 2.) Claims 40-43 have been canceled with out prejudice. Accordingly, the objection has been rendered moot and should be withdrawn.

B. Claims

The Examiner objected to claim 1 "for the following: on line 7 '$A_m(\lambda)$ the' should read --$A_m(\lambda)$ of the--." Claim 1 has been amended as suggested by the Examiner. Accordingly, the objection has been rendered moot and should be withdrawn.

The Examiner objected to claim 20 "for the following: on line 7 'B_i =' should read --$B_i(\lambda)$ =--; and the variable 'N' of line 10 is not defined." Claim 20 has been amended on line 7 to recite "$B_i(\lambda)$ =", as suggested. Moreover, claim 20 has been amended on line 10 to recite "$(N > 1)$". Accordingly, the objection has been rendered moot and should be withdrawn.

Written Description Rejection

Claims 11-12, 17, 31-32, and 37 were rejected under 35 USC § 112, first paragraph. In making the rejection, the Examiner asserted that the "claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention." (Paper No. 20041012 at 3.) Specifically, the Examiner asserted that "the terms of claims 11, 12, 31, and 32 of s_{2est}/s_{1est} and s_{2qc}/s_{1qc} appear to be new matter, for the disclosure on page 16 lines

4-24 does not adequately disclose those particular ratios for determining Q_{est} and Q_{qc}."

(*Id.*)

For the reasons set forth below the rejection, respectfully is traversed.

The written description requirement demands only that "a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention." MPEP 2163 (8th Ed., Rev. 2, May 2004, pp. 2100-164. Moreover, "[t]here is no *in haec verba* requirement, newly added claim [language may] be supported by the specification through express, implicit, or inherent disclosure." *Id.* at 2100-167; *see also In re Lukach*, 169 USPQ 795, 796 (BPAI 1971). Indeed, a term used in a claim need not be found in the specification at all; it is merely the concept conveyed by the term that must be present to provide support for the term. *In re Anderson*, 176 USPQ 331, 336 (CCPA 1973) ("The question, as we view it, is not whether 'carrying' was a word used in the specification as filed but whether there is support in the specification for employment of the term in a claim; is the concept of carrying present in the original disclosure?"); *see also In re Brearley*, 2003 WL 21280031, *2 (BPAI 2003) (non-precedential) ("The question is not whether an added word was the word used in the specification as filed, but whether there is support in the specification for the employment of the word in the claims, that is, whether the concept is present in the original disclosure.") In sum, the specification need only disclose the concept which supports the added claim language and nothing more.

In the present case, the specification unquestionably discloses the concept of <u>assigned and determined values</u> for s_1 and s_2. As such, the specification provides clear written description support for the terms to which the Examiner objects.

The originally filed specification makes an unambiguous distinction between "assigned" values and "determined" values. Throughout the specification, assigned values are designated with a subscript "qc"[1]. On the other hand, determined values are identified with a subscript "est".

Assigned values are measured on a reference spectrophotometer at the time of manufacture of the QC sample and assigned to the sample being manufactured. Determined values are measured at the time of QC analysis on the spectrophotometer of interest. It is these two, discrete sets of values which are compared in the QC analysis of the spectrophotometer of interest.

More specifically, any value Q equals s_2/s_1 for the appropriate values of s_1 and s_2. Therefore, if one wishes to calculate a <u>determined</u> value for Q, one would divide the value for s_2(determined) by the value for s_1(determined). And, likewise, if one desired to calculate an <u>assigned</u> value for Q, one would divide the value for s_2(assigned) by the value for s_1(assigned). The specification makes this absolutely clear:

> ***On manufacture of a QC sample the concentration c_{qc}, <u>the ratio s_2/s_1 denoted Q_{ref}</u> and an initial wavelength shift $\Delta\lambda_{qc}$ may be determined by a reference spectrophotometer.*** The initial wavelength shift of the QC sample emerges mainly from a variation in the composition of the solvent of the dye in the QC sample.

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[1] The specification erroneously denoted Q_{qc} as Q_{ref}. This obvious error was corrected, e.g., Q_{ref} was amended to Q_{qc}, in the previous Response with Amendment, filed July 26, 2004, without objection by the Examiner.

A label, such as a bar-code label, a magnetic label, etc, may be attached to each of the QC samples containing one or more of the values c_{qc}, Q_{ref} and $\Delta\lambda_{qc}$ in question. Alternatively one or more of the values may be printed in a bar code on a paper sheet following a set of QC samples. ***The values appearing on the labels or paper sheet are designated <u>assigned values</u>.***

During quality control of a specific spectrophotometer, ***the <u>assigned</u> values of c_{qc}, Q_{ref} and $\Delta\lambda_{qc}$ are read by the spectrophotometer and the values are stored in its memory. <u>Then the spectrum of the QC sample is determined and s_1, s_2, and $\Delta\lambda$ are determined as previously described. The determined values for Q_{est} = s_2/s_1, $\Delta\lambda$ and c_{est}</u> are also calculated and <u>compared to the assigned values of Q_{ref}, $\Delta\lambda_{qc}$ and c_{qc}</u>, respectively.***

A possible dilution of the QC sample may be determined from <u>a difference between Q_{est} and Q_{ref}</u>. (Page 16, lines 1-27.)
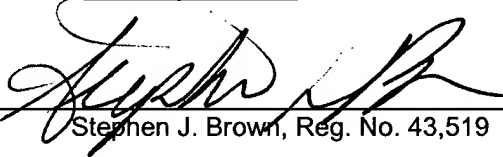
Clearly, there are separate values for s_1(determined) and s_1(assigned), and likewise, for s_2(determined) and s_2(assigned). And, it is these two, discrete sets of values which are used to calculate Q_{qc} and Q_{est}, *e.g.*, Q_{qc} = s_2(assigned)/s_1(assigned) and Q_{est} = s_2(determined)/s_1(determined). As disclosed, the values Q_{qc} and Q_{est}, are then compared as part of the quality control analysis of the spectrophotometer of interest.

In the previous Office Action, the Examiner objected to claims 11-12 and 31-32 because "Q_{est} and Q_{qc} both equal s_2/s_1." (Paper No. 20040416 at 2.) The Examiner required "differentiation between the two terms." (*Id.*) While the applicants believed that the terms had been clearly defined, with a view toward furthering prosecution, claims 11-12 and 31-32 were amended. Because the specification routinely used "qc" to designate assigned values and "est" to designate determined values, these same designations were used to designate the assigned and determined values of s_1 and s_2. Accordingly, claims 11 and 31 were amended to recite Q_{est} = s_{2est}/s_{1est}, and claims 12 and 32 were amended to recite Q_{qc} = s_{2qc}/s_{1qc}.

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The specification clearly discloses the concept of separate assigned and determined values for s_1 and s_2. In view of the foregoing, the terms s_{1qc}, s_{1est}, s_{2qc}, and s_{2est} are fully supported by the specification as filed. Therefore, contrary to the Examiner's assertion, the terms s_{2qc}/s_{1qc} and s_{2est}/s_{1est} are not new matter. Accordingly, the rejection is factually deficient and should be withdrawn.

For the reasons set forth above, entry of the amendments, withdrawal of the rejections and objections, and allowance of the claims are respectfully requested. If the Examiner has any questions regarding this paper, please contact the undersigned.

Respectfully submitted,

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 11, 2005.

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